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Attorney for Secured Creditor
US Bank Trust National Association as Trustee of the Igloo Series III Trust

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In Re:
VINCENT RAY AKERS
CANDI LOUISE AKERS

Debtor.

)

) CASE NO.: 13-46458
)

) CHAPTER 13
)

) RS No.: MRG-100
)

)

) **MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION FOR
RELIEF FROM AUTOMATIC
STAY**
)

) Date: October 17, 2018
)

) Time: 9:30 a.m.
)

) Ctrm: 220
)

) Place: US Bankruptcy Court
1300 Clay Street
Oakland, CA 94612
)

)
)

) Judge: William J Lafferty
)

1 TO ALL PARTIES IN INTEREST AND TO THEIR ATTORNEYS OF RECORD:

2 US Bank Trust National Association as Trustee of the Igloo Series III Trust, its
3 successors and/or assignees, ("Secured Creditor"), by and through its undersigned attorney,
4 moves this Court for termination of all stays and injunctions, pursuant to 11 U.S.C. §362(d)
5 and 105 and Federal Rules of Bankruptcy Procedure 4001 and 9014 and regarding the real
6 property commonly known as 2856 Gardenside Court, Brentwood, CA 94513, ("Property"
7 herein).

8 The relief requested in this Motion is proper for all of the reasons set forth in the
9 Memorandum of Points and Authorities and incorporated herein by this reference.

10 On or about 12/04/2013, Debtor filed a Voluntary Petition under Chapter 13 of the
11 Bankruptcy Code. Pursuant to 11 U.S.C. §362, the Petition stays the commencement or
12 continuantion of any proceedings against the Debtor or any act to obtain possession of any
13 property of the Debtor or to enforce any lien against any property of the Debtor. This Court
14 has jurisdiction pursuant to 28 U.S.C. §1334. The filing of this Motion commences a
15 contested matter within the meaning of Bankruptcy Rule 9014.

16 Pursuant to 11 U.S.C. §362(d)(1), Movant is entitled to relief from the automatic stay
17 to enforce its lien for cause, including lack of adequate protection of any interest in the
18 Property. Failure to make mortgage payments in a Chapter 13 can constitute cause for lifing
19 the stay. The Debtor has the burdent of showing there is no cause to terminate the stay. *In re*
20 *Ellis*, 60 B.R. 432 (9th Circ. BAP 1985). Where cause is shown, courts have no discretion, but
21 msut grant relief. *In re Ford*, 36 B.R. 501 (Dt 1983). Movant is not receiving regular monthly
22 post-petition payments. Debtor is currently post-petition due for 10/1/2017.

23 As of 9/26/2018, Debtor's loan is now post petition due for approximately

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1	Monthly payments:	7	at	\$3333.43	\$	23,334.01
2	Bankruptcy Attorney Fee:				\$	850.00
3	Bankruptcy Filing Fee:				\$	181.00
4	Less Suspense				\$	1,854.62
	Total Delinquencies:				\$	22,510.39

The sums set forth in this motion do not include any late charges, escrow advances, or other fees and charges that might otherwise be included in the event that a payoff is requested or provided.

The next scheduled monthly payment of \$3,333.43 is due 10/1/2018, and continuing each month thereafter. However, this amount may be subject to change pursuant to the terms of the applicable loan documents.

Movant is not adequately protected. Movant is not receiving regular monthly payments, and is unfairly delayed from proceeding with the foreclosure of the Property.. Accordingly, relief from the automatic stay should be granted to Movant pursuant to 11 U.S.C. §362(d)(1).

Dated: September 26, 2018

LAW OFFICES OF MICHELLE GHIDOTTI

/s/ Adam P. Thursby
Adam P. Thursby, Esq.
US Bank Trust National Association as Trustee of
the Igloo Series III Trust